



Rep. Deborah L. Graham

Filed: 3/16/2005

09400HB0990ham001

LRB094 03423 RLC 43919 a

1 AMENDMENT TO HOUSE BILL 990

2 AMENDMENT NO. _____. Amend House Bill 990 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Handgun Dealer Licensing Act.

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Department of State Police.

8 "Handgun dealer" means any person who is: (i) engaged in
9 the business of selling concealable firearms at wholesale or
10 retail, (ii) engaged in the business of repairing concealable
11 firearms or of making or fitting special barrels, stocks, or
12 trigger mechanisms to concealable firearms, or (iii) a
13 pawnbroker whose business or occupation includes the taking or
14 receiving, by way of pledge or pawn, of any concealable firearm
15 as security for the payment or repayment of money.

16 "Licensed dealer" means any firearms dealer who is licensed
17 under both this Act and Section 923 of the federal Gun Control
18 Act of 1968 (18 U.S.C. 923).

19 "Person" means an individual, firm, association, society,
20 partnership, limited liability company, corporation, or other
21 entity.

22 "Engaged in the business" means a person who devotes time,
23 attention, and labor to engaging in the activity as a regular
24 course of trade or business with the principal objective of

1 livelihood and profit, but does not include a person who makes
2 occasional repairs of concealable firearms, or who
3 occasionally fits special barrels, stocks, or trigger
4 mechanisms to concealable firearms.

5 "Transfer" means the actual or attempted transfer of a
6 concealable firearm or concealable firearm ammunition, with or
7 without consideration, but does not include the lease of a
8 concealable firearm, or the provision of ammunition
9 specifically for that firearm, if the firearm and the
10 ammunition are to be used on the lessor's premises, and does
11 not include any transfer of possession when the transferor
12 maintains supervision and control over the concealable firearm
13 or ammunition.

14 "With the principal objective of livelihood and profit"
15 means that the intent underlying the sale or disposition of
16 concealable firearms is predominantly one of obtaining
17 livelihood and pecuniary gain, as opposed to other intents,
18 such as improving or liquidating a personal firearms
19 collection; however, proof of profit shall not be required as
20 to a person who engages in the regular and repetitive purchase
21 and disposition of firearms for criminal purposes or terrorism.

22 "Terrorism" means activity directed against United States
23 residents that:

24 (i) is committed by an individual who is not a national
25 or permanent resident alien of the United States;

26 (ii) involves violent acts or acts dangerous to human
27 life that would be a criminal violation if committed within
28 the jurisdiction of the United States; and

29 (iii) is intended:

30 (A) to intimidate or coerce a civilian population;

31 (B) to influence the policy of a government by
32 intimidation or coercion; or

33 (C) to affect the conduct of a government by
34 assassination or kidnapping.

1 "Fugitive from justice" means a person who has fled from
2 any state to avoid prosecution for a crime or to avoid giving
3 testimony in any criminal proceeding.

4 "Firearm" has the meaning ascribed to it in Section 1.1 of
5 the Firearm Owners Identification Card Act.

6 "Adjudicated as a disabled person" means adjudicated as a
7 disabled person under the Probate Act of 1975 or the laws of
8 another state.

9 "Cannabis" has the meaning ascribed to it in the Cannabis
10 Control Act.

11 "Controlled substance" has the meaning ascribed to it in
12 the Illinois Controlled Substances Act.

13 Section 10. Unlicensed concealable firearms dealer;
14 prohibition. No person may sell or otherwise transfer, or
15 expose for sale or transfer, or have in his or her possession
16 with intent to sell or transfer any concealable firearm without
17 being licensed under this Act. This prohibition does not apply
18 to a person who makes occasional sales, exchanges, or purchases
19 of concealable firearms for the enhancement of a personal
20 collection or as a hobby or who sells all or part of his or her
21 personal collection of firearms.

22 Section 15. License application; requirements; penalty.

23 (a) The Department may grant a handgun dealer license to an
24 applicant who submits evidence that:

25 (1) he or she is at least 21 years of age;

26 (2) he or she, including in the case of a corporation,
27 partnership, or association, an individual possessing,
28 directly or indirectly, the power to direct or cause the
29 direction of the management and policies of the
30 corporation, partnership, or association:

31 (i) has not been convicted of a felony under the
32 laws of this State or another state;

- 1 (ii) is not a fugitive from justice;
- 2 (iii) is not and has not been an unlawful user of
3 or addicted to a controlled substance or cannabis;
- 4 (iv) has not been adjudicated as a disabled person
5 or committed to a mental institution;
- 6 (v) is not an alien, illegally or unlawfully, in
7 the United States;
- 8 (vi) has not been discharged from the Armed Forces
9 under dishonorable conditions; or
- 10 (vii) is not a former citizen of the United States
11 who has renounced his or her citizenship; and

12 (3) he or she does not have a mental condition that
13 poses a clear and present danger to the applicant, another
14 person, or to the community. For purposes of this
15 subdivision (3), "mental condition" means a state of mind
16 manifested by violent, suicidal, threatening, or
17 assaultive behavior.

18 (b) An application for a handgun dealer license must be
19 made on forms furnished by the Department. The application must
20 be verified by the applicant under oath and must be accompanied
21 by the required fee.

22 (c) The applicant must submit to the Department a license
23 fee of \$300, payable at the time of application, and an
24 additional \$300 payable every 3 years thereafter for so long as
25 the license is in effect.

26 (d) The applicant must submit to fingerprinting in
27 accordance with rules adopted by the Department and must pay a
28 fingerprint processing fee in the amount set by the Department
29 by rule.

30 (e) A person who knowingly makes a false statement or
31 knowingly conceals a material fact or uses false information or
32 identification in any application for a license under this Act
33 commits a Class A misdemeanor.

34 (f) A license granted under this Act remains in effect

1 until it is revoked, suspended, or otherwise withdrawn by the
2 Department or until it is surrendered by the licensee.

3 (g) The provisions of subdivision (a)(2)(ii) do not apply
4 to a person who has been granted relief from disabilities under
5 subsection (c) of Section 925 of Title 18 of the United States
6 Code or to a licensed dealer who is indicted for a crime who is
7 operating under an existing license if, before the expiration
8 of the term of the existing license, timely application is made
9 for a new license during the term of the indictment and until
10 any conviction under the indictment becomes final.

11 Section 20. License retention; requirements. A license
12 granted under this Act is subject to all of the following
13 requirements:

14 (1) A licensed dealer may only transact business under this
15 Act at an address that has a zoning classification that permits
16 the operation of a retail establishment.

17 (2) A licensed dealer may not transact business in any
18 place other than the premises specified in his or her license,
19 except that a licensed dealer may display, sell, or transfer
20 firearms at a gun show open to the general public or at any
21 regular meeting of an incorporated collectors club in
22 accordance with this Act and federal law.

23 (3) A licensed dealer may not violate any provision of any
24 federal or state law pertaining to the possession, use, sale,
25 or delivery of firearms.

26 (4) The licensed dealer must strictly adhere to the
27 provisions of all applicable federal and state laws and local
28 ordinances and local business license requirements.

29 (5) A separate license must be obtained for each separate
30 place of business. Before a licensed dealer moves his or her
31 place of business, he or she must promptly apply to the
32 Department for an amended license.

33 (6) The license, or a copy of the license certified by the

1 Department, must be displayed on the premises at a location
2 where it can easily be read.

3 (7) No concealable firearm may be displayed in any outer
4 window of the premises or in any other place where it can
5 readily be seen from the outside.

6 (8) Every concealable firearm must be unloaded when
7 delivered.

8 (9) The licensee must obtain a certificate of registration
9 issued under the Retailers' Occupation Tax Act.

10 (10) The licensee must take reasonable precautions to
11 ensure that the concealable firearms the licensee sells will
12 not be used illegally. These precautions include, but are not
13 limited to: (i) the refusal to sell a concealable firearm to a
14 person the licensee knows or has reason to know is purchasing
15 the firearm on behalf of another person who could not legally
16 purchase the firearm; (ii) the refusal to sell a concealable
17 firearm to a person who has provided a home address in a
18 municipality or county in which possession of that type of
19 concealable firearm is illegal unless the transferee presents
20 reasonably satisfactory evidence that the concealable firearm
21 will not be used or possessed unlawfully in that municipality
22 or county; and (iii) the refusal to sell a concealable firearm
23 to a person who has provided a home address in a municipality
24 or county that requires registration of the firearm, unless the
25 purchaser presents satisfactory evidence of compliance with
26 the registration requirement.

27 (11) The licensee must make available the licensee's
28 records relating to the sale of concealable firearms to any
29 officer or employee of the Department or of any unit of local
30 government in this State whenever the officer or employee is
31 authorized to enforce laws or ordinances pertaining to
32 firearms; provided, however, that no officer or employee may
33 conduct any search or seizure without a warrant other than an
34 inspection of a licensee's records relating to firearms sales;

1 and provided further that nothing in this Section shall
2 authorize any search or seizure forbidden by the United States
3 Constitution or the Illinois Constitution.

4 Section 25. Enforcement; revocation; notice. This Act must
5 be enforced by the Department, and may be enforced, for the
6 purpose of determining compliance with this Act, by any
7 municipality in which the licensee is located or, if the
8 licensee is not located in a municipality, by the county in
9 which the licensee is located. The Department, after due notice
10 to the licensee and reasonable opportunity for the licensee to
11 be heard, may revoke a license or may suspend a license for a
12 period of time that the Department may deem proper upon
13 satisfactory proof that the licensee has violated or permitted
14 a violation of any requirement of this Act or is no longer
15 eligible to obtain a license under Section 15. A person whose
16 license has been revoked by the Department is disqualified to
17 receive a license for 10 years after the revocation. Any person
18 who has substantially participated in the operation or
19 management of a licensee that has had its license revoked may
20 not be employed by or participate in the business of any other
21 licensee for 10 years after the revocation. Proceedings for
22 revocation or suspension under this Section may be initiated by
23 the Department or by any municipality or county.

24 Section 30. Submission to Department. A licensed dealer
25 must, within 24 hours after making a sale or transfer of a
26 concealable firearm to a person who is not licensed as a
27 dealer, report that sale to the Department of State Police. The
28 report must contain the following information: the date of the
29 sale or transfer; the identity and address of the dealer; the
30 name, address, age, and occupation of the transferee; the price
31 of the firearm; and the kind, description and number of the
32 firearm. All records of the reports must be maintained by the

1 Department on a computer database capable of allowing the
2 retrieval of information for each dealer and each transferee.
3 The computer database must also contain a listing of each
4 county or municipality that prohibits one or more types of
5 concealable firearm, and the type or types of concealable
6 firearms that are prohibited in that county or municipality.
7 Information in the database must be made available to any law
8 enforcement agency responsible for the enforcement of any
9 federal, State or local law or ordinance relating to firearms,
10 and to any licensed dealer who requests information relating to
11 a person who is seeking to purchase one or more firearms from
12 that dealer. Except as specifically provided in this Section,
13 information in the database are confidential records of the
14 Department and are not subject to disclosure under any other
15 law.

16 In addition to any other requirements of this Section, any
17 licensee who was required by Section 3 of the Firearm Owners
18 Identification Card Act to keep a record of a transfer of a
19 firearm occurring within the 24 month period immediately
20 preceding the effective date of this Act must, no later than 30
21 days after that effective date, report those transfers to the
22 Department of State Police. The report must contain the
23 information required to be maintained as records under
24 subsection (b) of Section 3 of the Firearm Owners
25 Identification Card Act. The Department must include the
26 records of those reports in the computer database required to
27 be maintained under this Section.

28 Section 35. Penalty. Any handgun dealer who sells, or who
29 possesses with intent to sell, trade, or transfer, any firearm
30 without being licensed under this Act is guilty of a Class 4
31 felony."